

UNITED STATES DISTRICT COURT

for the

District of Montana

United States of America

v.

Dillon James Wippert

Case No: CR 21-74-GF-BMM

USM No: 72412-509

Date of Original Judgment: 05/10/2023

Date of Previous Amended Judgment: _____

(Use Date of Last Amended Judgment if Any)

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ **DENIED.** ☐ **GRANTED** and the defendant's previously imposed sentence of imprisonment (*as reflected in the last judgment issued*) of _____ months **is reduced to** _____.

After receiving a letter from the Defendant, the Court directed Defendant to advise whether he intended to file a motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. (*See* Doc. 61.) He responded with the instant request, which seeks a sentence reduction under the retroactive application to the criminal history rules in Parts A and B, subpart 1 of Amendment 821 to the United States Sentencing Guidelines. (*See* Doc. 62.) Defendant is ineligible.

Part A limits the overall criminal history impact of "status points" for offenders who committed the instant offense while under a criminal justice sentence. Part B, subpart 1 provides a two-level offense level decrease for offenders who did not receive any criminal history points under Chapter Four and whose instant offense did not involve specific aggravating factors. *See* USSG Ret. App. A & B, Sub. 1 Amendment 821 "Reasons for Amendment" (Nov. 1, 2023).

Here, as to Part A, Defendant did not receive any Chapter Four "status points." (*See* PSR ¶¶ 36–37.) As to Part B, Defendant's prior convictions resulted in a total criminal history score of one, not zero. (PSR ¶ 36.) Because he is clearly ineligible for a sentence reduction under the retroactive application of Amendment 821, his motion is denied.

The Clerk of Court is directed to modify the docket to recharacterize his § 2255 motion, (Doc. 60), as a letter. If Wippert chooses to file a § 2255 motion in the future, he is advised to use the Court's form to do so.

Except as otherwise provided, all provisions of the judgment dated _____ shall remain in effect.

IT IS SO ORDERED.

Order Date: 05/06/2024



Judge's signature

Effective Date: _____
(if different from order date)

Brian M. Morris, Chief District Judge

Printed name and title